

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

LELAND G. WHITSON, M.D.

Case No. 800-2014-006364

**Physician's and Surgeon's
Certificate No. A 22527**

Respondent

DECISION AND ORDER

**The attached Stipulated Surrender of License and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on August 15, 2017

IT IS SO ORDERED August 8, 2017.

MEDICAL BOARD OF CALIFORNIA

By:



**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CHRISTINE R. FRIAR
Deputy Attorney General
4 State Bar No. 228421
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-6404
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2014-006364

13 LELAND G. WHITSON, M.D.

14 1711 Via El Prado, Suite 201
Redondo Beach, CA 90277

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Physician's and Surgeon's Certificate
No. A 22527,

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Christine R. Friar,
24 Deputy Attorney General.

25 2. Leland G. Whitson, M.D. (Respondent) is representing himself in this proceeding and
26 has chosen not to exercise his right to be represented by counsel.

27 //

3. On or about July 1, 1967, the Medical Board issued Physician's and Surgeon's Certificate Number A 22527 to Leland G. Whitson, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on June 30, 2016, and has not been renewed.

JURISDICTION

4. Accusation No. 800-2014-006364 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 800-2014-006364 is attached as Exhibit A and is incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2014-006364. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2014-006364, agrees that cause exists for discipline and hereby surrenders his Physician's and Surgeon's Certificate No. A 22527 for the Board's formal acceptance.

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9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 22527, issued to Respondent Leland G. Whitson, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2014-006364 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2014-006364 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

7-17-2017

LELAND G. WHITSON, M.D.
Respondent

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ENDORSEMENT

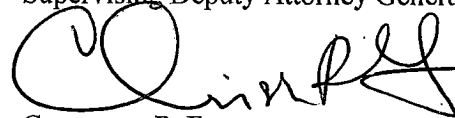
The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated:

7/31/2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



CHRISTINE R. FRIAR
Deputy Attorney General
Attorneys for Complainant

LA2017504273

Exhibit A

Accusation No. 800-2014-006364

1 XAVIER BECERRA
2 Attorney General of California
3 ROBERT MCKIM BELL
4 Supervising Deputy Attorney General
5 CHRISTINE R. FRIAR
6 Deputy Attorney General
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2014-006364

12 LELAND G. WHITSON, M.D.

ACCUSATION

13 1711 Via El Prado, Suite 201
14 Redondo Beach, CA 90277

15 Physician's and Surgeon's Certificate
16 No. A 22527,

Respondent.

18 Complainant alleges:

19 PARTIES

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about July 1, 1967, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 22527 to Leland G. Whitson, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate expired on June 30, 2016, and has not been renewed.

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27 //

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

"(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

5. Section 2234 of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 "....

4 "(e) The commission of any act involving dishonesty or corruption which is substantially
5 related to the qualifications, functions, or duties of a physician and surgeon.

6 "...."

7 6. Section 2236 of the Code states:

8 "(a) The conviction of any offense substantially related to the qualifications, functions, or
9 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
10 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
11 evidence only of the fact that the conviction occurred.

12 "....

13 "(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
14 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
15 shall be conclusive evidence of the fact that the conviction occurred."

16 7. California Code of Regulations, title 16, section 1360, states:

17 "For the purposes of denial, suspension or revocation of a license, certificate or permit
18 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
19 considered to be substantially related to the qualifications, functions or duties of a person holding
20 a license, certificate or permit under the Medical Practice Act if to a substantial degree it
21 evidences present or potential unfitness of a person holding a license, certificate or permit to
22 perform the functions authorized by the license, certificate or permit in a manner consistent with
23 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
24 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
25 violation of, or conspiring to violate any provision of the Medical Practice Act."

26 8. Section 2261 of the Code states:

27 "Knowingly making or signing any certificate or other document directly or indirectly
28 related to the practice of medicine or podiatry which falsely represents the existence or

1 nonexistence of a state of facts, constitutes unprofessional conduct."

2 9. Section 810 of the Code states:

3 "(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
4 including suspension or revocation of a license or certificate, for a health care professional to do
5 any of the following in connection with his or her professional activities:

6 "....

7 (2) Knowingly prepare, make, or subscribe any writing, with intent to present
8 or use the same, or to allow it to be presented or used in support of any false or
9 fraudulent claim.

10 "....

11 "(d) As used in this section, health care professional means any person licensed or certified
12 pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the
13 Chiropractic Initiative Act."

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct – Dishonest and Corrupt Acts)**

16 10. Respondent is subject to disciplinary action under Code sections 2234, subdivisions
17 (a) and (e), 2261, and 810 in that he committed dishonest and corrupt acts when he knowingly
18 made false statements related to the practice of medicine. The circumstances are as follows:

19 11. On or about April 8, 2014, in *United States of America v. Leland Whitson*, case
20 number 2:14-cr-00204, in the United States District Court for the Central District of California,
21 an Information was filed against Respondent charging him with one felony count of violating 18
22 U.S.C. section 1035 (false statements relating to health care matters). The Information
23 specifically alleges as follows:

24 A. Between June 1999 and approximately mid-April 2013, Respondent was a
25 licensed physician who had contracted with Atlantic Recovery Services,
26 later called Atlantic Health Services ("ARS"), to serve as its
27 Medical/Clinical Director.

28 //

1 B. ARS was a private provider of alcohol and drug abuse treatment services,
2 with its business office in Long Beach, California. ARS was certified to
3 provide services under the Drug Medi-Cal program. ARS operated alcohol
4 and drug treatment programs at various high schools and middle schools in
5 Los Angeles County, California.

6 C. During the relevant time period, the Medi-Cal program ("Medi-Cal") was a
7 health care benefit program that provided reimbursement for medically
8 necessary health care services to indigent persons in California. The Drug
9 Medi-Cal program was a program within Medi-Cal that paid for medically
10 necessary alcohol and drug treatment to California's Medi-Cal eligible
11 population. Medi-Cal covered outpatient substance abuse services only
12 when such services were medically necessary, prescribed by a physician,
13 and provided in accordance with utilization controls and regulatory
14 requirements set forth in Title 22 of the California Code of Regulations.

15 D. While serving as the Medical/Clinical Director of ARS and in a matter
16 involving a health care benefit program, specifically Medi-Cal, and in
17 connection with the delivery of and payment for a health care benefit,
18 specifically substance abuse treatment services, Respondent knowingly and
19 willfully falsified, concealed, and covered up, by way of trick, scheme, or
20 device, a material fact, and knowingly and willfully made and used a
21 materially false, fictitious, and fraudulent statement and entry.

22 E. More specifically, Respondent knowingly and willfully participated in a
23 scheme to conceal the fact that ARS was enrolling students in its substance
24 abuse counseling program without regard for the students' medical
25 necessity in its substance abuse counseling program and without regard for
26 the students' medical necessity for alcohol and drug treatment. This fact
27 was material to Medi-Cal's payment decision for the provision of Drug
28 Medi-Cal services.

- 1 F. During the relevant time period, ARS counselors would prepare intake
2 assessment notes, health questionnaires, and treatment plans for students
3 seeking to enroll in ARS' substance abuse counseling program. The
4 treatment, among other things, indicated a diagnosis of alcohol or
5 substance abuse disorder or addiction.
- 6 G. Respondent reviewed the ARS's counselors' intake assessment notes,
7 health questionnaires, and treatment plans for the students.
- 8 H. Respondent signed treatment plans for students whether or not their records
9 demonstrated a medical necessity for alcohol and drug treatment, including
10 for students whose records indicated that the student had only occasionally
11 used alcohol or drugs or had not used alcohol or drugs recently.
- 12 I. In signing each treatment plan, Respondent confirmed that there was a
13 medical necessity for substance abuse counseling in accordance with Title
14 22, California Code of Regulations, sections 51341.1(h)(1)(D)(i) and
15 51303, whether or not that was the case.
- 16 J. ARS used the treatment plans signed by Respondent to support the
17 enrollment of students in the ARS substance abuse counseling program
18 whether or not the students medically needed such services.
- 19 K. ARS would then submit false and fraudulent claims for substance abuse
20 counseling services to the Drug Medi-Cal program.
- 21 L. Medi-Cal would pay the false and fraudulent claims, and ARS would
22 receive reimbursement on those claims.
- 23 M. As a direct and intended result of Respondent's participation in the scheme,
24 ARS submitted to the Drug Medi-Cal program false and fraudulent claims
25 totaling approximately \$50 million for purported group and individual
26 substance abuse counseling of students at various schools in Los Angeles
27 County. Medi-Cal paid ARS approximately \$46 million for those claims.

28 //

1 N. In or about January 2012, Respondent signed a treatment plan for student
2 E.O. that contained a false statement that E.O. had a diagnosis of alcohol
3 abuse, when in fact, as Respondent then well knew, E.O.'s records
4 indicated that E.O. had not recently used alcohol and did not have an
5 alcohol abuse disorder requiring treatment. In signing the treatment plan,
6 Respondent falsely confirmed that E.O. had a medical need for substance
7 abuse counseling in accordance with Title 22, California Code of
8 Regulations, sections 51341.1(h)(1)(D)(i) and 51303.

9 12. On June 2, 2014, a Change of Plea Hearing was held in *United States of America v.*
10 *Leland Whitson*, case number 2:14-cr-00204. Respondent pleaded guilty to one felony count of
11 making a false statement affecting a health care program, in violation of 18 U.S.C. section 1035.
12 The plea was accepted by the Court.

13 13. Respondent's acts and/or omissions as set forth in paragraphs 11 and 12 above,
14 whether proven individually, jointly, or in any combination thereof, constitute unprofessional
15 conduct pursuant to sections 2234, subdivisions (a) and (e), 2261, and 810 of the Code.
16 Accordingly, Respondent has subjected his Physician's and Surgeon's Certificate to discipline.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct – Conviction)**

19 14. Respondent is subject to disciplinary action under Code sections 2234, subdivision
20 (a), and 2236, subdivisions (a) and (d), and California Code of Regulations, title 16, section 1360
21 in that he pled guilty to an offense (violating 18 U.S.C. section 1035 - false statements relating to
22 health care matters) substantially related to the qualifications, functions, or duties of a physician
23 and surgeon. The circumstances are as follows:

24 15. The allegations contained in paragraphs 11 and 12 are incorporated by reference
25 herein.

26 16. Respondent's acts and/or omissions as set forth in paragraphs 11 and 12 above,
27 whether proven individually, jointly, or in any combination thereof, constitute unprofessional
28 conduct pursuant to 2234, subdivision (a), and 2236, subdivisions (a) and (d), and California

1 Code of Regulations, title 16, section 1360. Accordingly, Respondent has subjected his
2 Physician's and Surgeon's Certificate to discipline.

3 **DISCIPLINARY CONSIDERATIONS**

4 17. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges that on July 19, 1978, in a prior action entitled *In the Matter of the*
6 *Accusation Against: Leland Whitson M.D.*, Case No. D-1941, before the Board of Medical
7 Quality Assurance of California (now, the Board), Respondent's license was disciplined based on
8 findings that during the period from November 1975 through March 1976, Respondent was under
9 the influence of alcohol while on duty at Valley Presbyterian Hospital in Van Nuys, California. It
10 was further found that, on numerous occasions, Respondent was not available when hospital
11 personnel attempted to contact him concerning his patients, failed to go to the hospital to
12 ascertain the condition of his patients, and discharged patients by telephone without having
13 examined said patients prior to discharge. Respondent's use of alcohol was found to be placing
14 his patients and the public in danger. An order of license revocation issued, but was stayed, and a
15 ten-year period of probation was imposed with multiple terms and conditions. That decision is
16 now final and is incorporated by reference as if fully set forth herein.

17 18. Complainant further alleges that on May 15, 1980, in another action entitled *In the*
18 *Matter of the Petition to Revoke Probation Against: Leland G. Whitson, M.D.*, Case No. D-2378,
19 before the Board of Medical Quality Assurance of California, Respondent was found to have
20 violated the terms and conditions of his probation. Specifically, Respondent, in violation of his
21 probation, engaged in solo practice and failed to submit to the Board, and receive its prior
22 approval, for a plan of practice limited to a supervised, structured environment in which he would
23 be supervised by another physician. Respondent also tested positive for alcohol use in violation
24 of a term of his probation requiring that he abstain completely from the use of alcoholic
25 beverages. Respondent was also found to have failed to participate in psychotherapy as required
26 by the terms of his probation. Additionally, Respondent failed to submit quarterly reports to the
27 Board attesting to his compliance with the terms of his probation. An order of license revocation
28 issued, but was stayed, and a ten-year period of probation, set to commence on June 16, 1980,

1 was imposed with multiple terms and conditions. Respondent's license was also suspended for
2 270 days. That decision is now final and is incorporated by reference as if fully set forth herein.

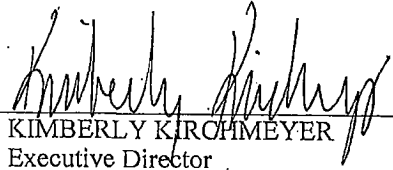
3 19. Complainant further alleges that on April 29, 2014, an Order was issued in *United*
4 *States of America v. Leland Whitson*, case number 2:14-cr-00204, in the United States District
5 Court for the Central District of California, making it a condition of Respondent's bail that
6 Respondent will not be involved in substance abuse treatment for Medicare, Medi-Cal, or other
7 federal health insurance program patients, including billing for such treatment with the exception
8 of voluntary substance abuse counseling and consultation.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

- 12 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 22527,
13 issued to Leland G. Whitson, M.D.;
- 14 2. Prohibiting him from supervising physician assistants and advanced practice nurses;
- 15 3. If placed on probation, ordering him to pay the Board the cost of probation
16 monitoring; and
- 17 4. Taking such other and further action as deemed necessary and proper.

18
19 DATED: June 29, 2017


KIMBERLY KIROHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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